

## **REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building

Room 250

9:00 a.m.

October 17, 2018

### **MINUTES**

#### **DIVISION STAFF PRESENT:**

Jonathan Stewart, Division Director  
Mark Fagergren, Licensing and Education Director  
Kadee Wright, Chief Investigator  
Justin Barney, Hearing Officer  
Chad Tengler, Real Estate Analyst  
Judith Jensen, Assistant Attorney General  
Paula Faerber, Assistant Attorney General  
Stephen Gillies, Assistant Attorney General  
Amber Nielsen, Board Secretary  
Jennica Gruver, Real Estate Education Coordinator  
Van Kagie, Investigator  
Kurtis Hughes, Investigator  
Mark Schaerrer, Investigator  
Sarah Nicholson, Investigator  
Chris Martindale, Investigator  
Teresa Larsen, Investigator  
Lacey Vawdrey, Division Staff  
Connie Mickles, Division Staff  
Sarah Thaler, Division Staff

#### **COMMISSION MEMBERS PRESENT:**

Lerron Little, Vice Chair  
Lori Chapman, Commissioner  
Russell Booth, Commissioner  
Marie McClelland, Commissioner

#### **PUBLIC MEMBERS PRESENT:**

Dan Naylor	Shane Norris
Kreg Wagner	Mike Ballif
Heather Swanger	Brian Swan
Rachel Jaar	Ryan Nord
Kevin Swenson	Mike Hebert
Don Zimmerman	Danielle Jensen
Kurt Buckley	

The October 17, 2018 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Vice Chair Little conducting. Chair Musselman was excused from today's meeting.

## **PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes – A motion was made and seconded to approve the minutes from the September 19, 2018 meeting of the Commission as written. Vote: Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved.

## **PUBLIC COMMENT**

Mr. Barney reported that Robert Wright requested to be added to the public comment for consideration for an extension of his fine payment by 30 to 60 days.

## **DIVISION REPORTS**

### **DIRECTOR'S REPORT – Jonathan Stewart**

Director Stewart reported that since the last meeting the Division's PSA script was received back from the focus group, given to the Commission for consideration, and the script was finalized. The Division is now working on getting talent.

Director Stewart reported the Division internally discussed some legislation which would prohibit agents from taking record when they leave a broker's office. There was also discussion about prohibiting brokers from contracting out the responsibility to maintain records. There was some discussion about what the rules currently are and the need for any additional rules. Mr. Fagergren stated that as the rules are written now there is no culpability on agents who take records. Mr. Barney stated the agents need to know the original complete records but stay with the broker. The Commission appears to be in favor of this update. Director Stewart stated the Division will give language to the Commission once there is a draft.

Director Stewart there is also some pending legislation regarding the licensing of home inspectors. He will listen to that discussion and report back.

Director Stewart reported the Division is working on draft language for the RAP Back and will get that language to the Commission. Vice Chair Little reported at the UAR meetings it seemed well received.

### **ENFORCEMENT REPORT – Kadee Wright**

Ms. Wright asked the Commission for the opinion on stipulations for hearings which are received on the same day as the scheduled hearing. Vice Chair Little stated he is fine with those stipulations, but it causes confusion in the meeting. Commissioner Booth thinks it might be prudent to have some deadline, possibly five days.

Ms. Wright reported month of September the Division received 28 complaints; opened 23 cases; closed 18 cases; leaving 419 open cases. There are 17 cases assigned to the AG's office.

Ms. Wright presented the following for consideration:

Stipulations for Review

Danielle Jensen

Kurt J. Buckley

Tory Burningham

Damon T. Bocchino

Nathanael E. Dardon

Douglas D. Delquadro

Scott A. Dilley

Matthew Magnotta

Badi Mahmood

Brenda Mangold

Donald Zimmerman

The stipulation for Kristoffer Lyman was not presented for consideration.

Ms. Jensen of the AG's office presented the following for consideration:

Stipulation for Review

Suzanne Hunter

A motion was made and seconded to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Vice Chair Little, yes; Commissioner Booth, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved.

**CLOSED TO PUBLIC**

An Executive Session was held from 10:12 a.m. to 10:26 a.m.

**OPEN TO PUBLIC**

**Results of Executive Session**

Danielle Jensen – Approved with Division Concurrence

Kurt J. Buckley – Approved with Division Concurrence

Tory Burningham – Approved with Division Concurrence

### **EDUCATION AND LICENSING REPORT – Mark Fagergren**

Mr. Fagergren reported the Instructor Development Workshop was held last week. He reported Mark Barker spoke. He stated there was a discussion on legislation and the questions Van Kagle gets so the educators can see where there are issues. Ms. Wright spoke about enforcement issues, and Mr. Fagergren spoke about licensing and education with an emphasis on agency, particularly how there are so many agents who do not have agency compliance on their broker applications.

Mr. Fagergren presented an application to the Commission for consideration of high school or GED equivalence.

### **COMMISSION AND INDUSTRY ISSUES**

Mr. Fagergren discussed the updated rules for schools. There are a few revisions including that the schools cannot make a misrepresentation in advertising, including personnel, business practices, etc.

Mr. Fagergren reported he was contacted by three schools about an additional change. The current rules state that a school may not issue online credit if the education is not completed within one year of the registration. The schools have issues if there are students who register and then fail to begin the courses until much later. Mr. Fagergren noted there is only a year deadline for online courses, the live courses do not have that restriction. The schools would prefer for the year to be based on the start of taking classes instead of the registration date. There was some discussion on the various requirements. The Commission concluded they would prefer to remove the one-year requirement and to allow the schools to handle the deadlines for taking the courses internally. The Division will draft a rule and present it to the Commission in the future.

Mr. Barney mentioned the language for cease and desist orders. He discussed the process of rule changes. He stated his preference would be to include that language with the current proposed rule. Mr. Barney went through the other proposed rule changes. The Commission discussed the rules and are in favor of the rules. Mr. Barney will add that information to the upcoming proposed rule changes. The Commission also discussed there are approved forms which have not been updated since 1983 and 1987. Mr. Barney will take a look at those forms and see if any changes need to be made.

Commissioner Chapman asked if applicants can request approval of high school or GED equivalency in advance of submitting their application. Mr. Fagergren stated the rules require that the Commission will decide. There was discussion on the process and the Commission concluded the current process works.

Vice Chair Little reported on the Require CE Task Force. They have not yet met but

a hoping to meet next week to discuss the proposal.

A motion was made and seconded to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Vice Chair Little, yes; Commissioner Booth, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved.

### **CLOSED TO PUBLIC**

An Executive Session was held from 11:07 a.m. to 11:35 a.m.

### **OPEN TO PUBLIC**

Director Stewart reported the education equivalency for Mr. Quijano was approved by the Commission.

#### **Results of Executive Session**

Damon T. Bocchino – Approved with Division Concurrence  
Nathanael E. Dardon – Approved with Division Concurrence  
Douglas D. Delquadro – Approved with Division Concurrence  
Scott A. Dilley – Approved with Division Concurrence  
Matthew Magnotta – Approved with Division Concurrence  
Badi Mahmood – Approved with Division Concurrence  
Brenda Mangold – Approved with Division Concurrence  
Donald Zimmerman – Approved with Division Concurrence  
Suzanne Hunter – Approved with Division Concurrence

A motion was made and seconded to adjourn the meeting. Vote: Vice Chair Little, yes; Commissioner Booth, yes; Commissioner Chapman, yes; Commissioner McClelland, yes. The motion was approved. The meeting adjourned at 11:36 a.m.